



Senate

General Assembly

File No. 154

February Session, 2012

Substitute Senate Bill No. 181

Senate, March 28, 2012

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT REQUIRING THE STANDARD AND PREVAILING WAGE BE PAID TO CERTAIN EMPLOYEES OF EMPLOYERS WHO RECEIVED FINANCIAL ASSISTANCE FROM STATE ECONOMIC DEVELOPMENT ENTITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2013, and applicable to any*
2 *agreement for financial assistance entered into on or after said date*) (a) On
3 and after January 1, 2013, if the state or any agency of the state,
4 including the Department of Economic and Community Development,
5 the Connecticut Development Authority or Connecticut Innovations,
6 Incorporated, provides financial assistance to any business
7 organization in an amount greater than or equal to one million dollars,
8 such providing agency shall require, as a condition of receiving
9 financial assistance that (1) the business organization pay, to each
10 employee who provides food, building, property or equipment
11 services, as defined in section 31-57f of the general statutes, within a
12 period of five years from the date the business organization received

13 such assistance, wages greater than or equal to the prevailing rate of
14 wages paid by a required employer, as defined in said section 31-57f,
15 to an employee performing such services pursuant to said section 31-
16 57f, and (2) any contract entered into by the business organization for
17 the provision of food, building, property or equipment services, as
18 defined in said section 31-57f, for a period of five years from the date
19 the business organization received such assistance, shall contain the
20 following provision: "The wages paid on an hourly basis to any person
21 providing food, building, property or equipment services and the
22 amount of payment or contribution paid or payable on behalf of each
23 such person to any employee welfare fund, as defined in section 31-53
24 of the general statutes, shall be at a rate greater than or equal to the
25 prevailing rate of wages paid by a required employer, as defined in
26 section 31-57f of the general statutes, to an employee performing such
27 services pursuant to said section."

28 (b) If a business organization that receives financial assistance fails
29 to pay any employee providing such services at a rate greater than or
30 equal to the prevailing rate of wages, as required by subdivision (1) of
31 subsection (a) of this section, or fails to contract for the payment of
32 employees at a rate greater than or equal to the prevailing rate of
33 wages, as required by subdivision (2) of subsection (a) of this section,
34 the full amount of any financial assistance received and a penalty of
35 five per cent of such amount shall be repaid by the business
36 organization to the providing agency. For purposes of this section,
37 "financial assistance" includes, but is not limited to, all forms of loans,
38 grants, guarantees and tax abatements.

39 Sec. 2. (NEW) (*Effective January 1, 2013, and applicable to any contract*
40 *for construction, remodeling, refinishing, refurbishing, rehabilitation,*
41 *alteration or repair entered into on or after said date*) (a) On and after
42 January 1, 2013, if the state or any agency of the state, including the
43 Department of Economic and Community Development, the
44 Connecticut Development Authority or Connecticut Innovations,
45 Incorporated, provides financial assistance to any business
46 organization in an amount greater than or equal to one million dollars

47 for the construction, remodeling, refinishing, refurbishing,
48 rehabilitation, alteration or repair of any property owned by such
49 business organization, such providing agency shall require, as a
50 condition of receiving financial assistance, that the contract entered
51 into by the business organization for such construction, remodeling,
52 refinishing, refurbishing, rehabilitation, alteration or repair of any
53 property shall contain the following provision: "The wages paid on an
54 hourly basis to any person performing the work of any mechanic,
55 laborer or worker on the work herein contracted to be done and the
56 amount of payment or contribution paid or payable on behalf of each
57 such person to any employee welfare fund, as defined in section 31-53
58 of the general statutes, shall be at a rate equal to the rate customary or
59 prevailing for the same work in the same trade or occupation for a
60 public works project constructed in the town in which the property is
61 located. Any contractor who is not obligated by agreement to make
62 payment or contribution on behalf of such persons to any such
63 employee welfare fund shall pay to each mechanic, laborer or worker
64 as part of such person's wages the amount of payment or contribution
65 that would be payable under said section 31-53 for such person's
66 classification on each pay day."

67 (b) On and after January 1, 2013, a business organization that (1)
68 received financial assistance from the state or any agency of the state,
69 (2) entered into a contract for the construction, remodeling, refinishing,
70 refurbishing, rehabilitation, alteration or repair of any property owned
71 by such business organization, and (3) did not include the provision
72 required pursuant to subsection (a) of this section in such contract,
73 shall repay the full amount of any financial assistance received and a
74 penalty of five per cent to the providing agency. For purposes of this
75 section, "financial assistance" includes, but is not limited to, all forms
76 of loans, grants, guarantees and tax abatements.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>January 1, 2013, and applicable to any agreement for financial assistance entered into on or after said date</i>	New section
Sec. 2	<i>January 1, 2013, and applicable to any contract for construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair entered into on or after said date</i>	New section

Statement of Legislative Commissioners:

In section 1(a)(1), a comma was inserted after "pay" to comply with the proper rules of grammar, "for" was deleted and "within" was inserted in lieu thereof for clarity and to conform with the style of the general statutes, and "on an hourly basis" was deleted for consistency and to reflect the intent of the committee.

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Various State Agencies	GF - Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill imposes standard wage and prevailing wage requirements on business organizations that agree to receive \$1.0 million or more in state financial assistance on or after January 1, 2013. Additionally, the bill establishes a 5% penalty of the assistance if a business fails to meet this requirement. To the extent that a business violates the provisions of the bill, there could be a cost savings to the state's financial assistance programs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OR Bill Analysis**sSB 181*****AN ACT REQUIRING THE STANDARD AND PREVAILING WAGE BE PAID TO CERTAIN EMPLOYEES OF EMPLOYERS WHO RECEIVED FINANCIAL ASSISTANCE FROM STATE ECONOMIC DEVELOPMENT ENTITIES.*****SUMMARY:**

This bill imposes standard wage and prevailing wage requirements on business organizations that receive \$1 million or more in state financial assistance. It defines financial assistance as including, but not limited to, loans, grants, guarantees, and tax abatements from the state or any state agency, including the Department of Economic and Community Development (DECD), the Connecticut Development Authority (CDA), and Connecticut Innovations, Inc. (CII).

Under the standard wage law, which currently applies to private contractors operating in state buildings, a contractor providing food, building, property, or equipment services must agree to pay workers providing those services a standard wage that the labor commissioner determines, including an added amount to cover the cost of any health, welfare, or retirement plans.

The bill applies the prevailing wage law for construction wages to any construction, remodeling, refinishing, refurbishing, rehabilitation, alteration, or repair of any property owned by the business organization receiving the assistance of \$1 million or more. Thus the business organization must require the construction contractor to pay prevailing wage rates, as set by the federal government, to any mechanic, laborer, or worker.

Business organizations that violate either the standard wage or prevailing wage portions of the bill must repay the assistance and pay

a penalty of 5% of the assistance to the state agency.

EFFECTIVE DATE: January 1, 2013; the standard wage requirement is applicable to any agreement for financial assistance entered into on or after that date, and the prevailing wage requirement is applicable to any construction or remodeling contract entered into on or after that date.

STANDARD WAGE

The bill applies the standard wage requirement whenever the state or any state agency, including DECD, CDA or CIL, provides financial assistance of \$1 million or more to any business organization. It does this by imposing the standard wage requirement for service workers employed by (1) the business entity receiving the state assistance and (2) any vendor the business organization contracts with to provide food service, building maintenance, and property or equipment services. The wage provision must be included in the agreement between the contractor and the business organization.

The bill appears to apply this requirement to each employee who performs these services for the business entity and any contract the business enters into to provide these services. It does not limit the requirement to employees and contracts related to an economic development project supported by the state assistance.

The requirement lasts for five years from the date the business receives the assistance.

By law, the labor commissioner establishes the standard wage rate for each job classification for all hourly employees by adopting the minimum hourly wages set in the federal "Register of Wage Determinations under the Service Contract Act," plus a 30% surcharge to cover the cost of any health, welfare, or retirement plans. The employer either puts an amount equal to the surcharge in a benefit plan or pays it directly to the employee in additional wages. Due to a change in the law, employees hired after July 1, 2009 in certain janitorial job classifications are paid a rate equal to that in the

Hartford-area union contract (CGS § 31-57f).

PREVAILING WAGE

The bill applies the prevailing wage law for construction wages to any construction, remodeling, refinishing, refurbishing, rehabilitation, alteration, or repair of any property owned by the business organization receiving the assistance of \$1 million or more. It accomplishes this by mandating a prevailing wage provision be included in the agreement between the contractor and the business organization.

By law, the prevailing wage applies to each contract for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration, or repair of any public works project by the state, its towns, or other political subdivision of the state (CGS § 31-53). The project thresholds for prevailing wage are \$100,000 for renovation and \$400,000 for new construction. The prevailing wage is established by the U.S. Department of Labor through a wage survey.

The bill's prevailing wage requirement is applicable to any construction or remodeling contract entered into by the private business organization and the construction contractor on or after the January 1, 2013 effective date. This could affect projects where the state awarded the assistance before the effective date, but the contract to perform the construction work is signed after the effective date. There is often considerable time between the time the state awards the money and the time the construction contract is signed.

PENALTIES

While the existing standard wage and prevailing wage law each have their own penalties, the bill instead establishes its own penalties for assistance to business organizations. Business organizations that violate either the standard wage or prevailing wage portions of the bill must repay the assistance and pay a penalty of 5% of the assistance to the state agency. Presumably, the labor department enforces the bill's provisions, but the bill does not specify what agency is responsible for

enforcement.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 3 (03/15/2012)